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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,154	10/23/2003	Niels Diffrient	0007049	1662

826 7590 05/16/2006

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EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/693,154	DIFFRIENT, NIELS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Anthony D. Barfield	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,4,8-10,11-12, and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz et al. Schwartz et al shows the use of an office chair (C) on a movable base having a bracket (58) with a cavity therein (50). The bracket can inherently be mounted and “selectively fixed” at six inches above the plane of a top of a seat of the chair. An armrest support arm (56) has a first portion rotatably mounted within the cavity of the bracket (see Fig. 13A) and a second portion extending from the bracket whereby an armrest body is mounted on an end thereof. A rotation lock (59) engages the armrest support to prevent rotation of the armrest support within the cavity. The rotation lock is mounted in the bracket.

3. Claims 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Swenson. Swenson shows the use of a chair with a support (16) for a back of a chair connected to a base of the chair; a bracket (18) mounted on the back support; a first link (500) pivotally mounted to the bracket mounted on the back support; a second link (502) pivotally mounted to the bracket mounted on the back support; a second bracket (504) pivotally mounted to distal ends of the first and second links, with an armrest body (30) thereon. The armrest body maintains an orientation substantially parallel to a seat when its not being pivoted to a non-use position. A locking

Art Unit: 3636

mechanism (73) comprises a slider-crank at the interface between one of the links and mounted to the bracket mounted on the back support and second bracket.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swenson et al in view of Wilkerson. Swenson et al. shows all of the teachings of the claimed invention except the use of a pedestal with a plurality of arms. Wilkerson shows the conventional use of a pedestal with a plurality of legs. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pedestal of Swenson et al, with the plurality of arms, as taught by Wilkerson in order to provide additional stability to the chair.

6. Claims 2-3,13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz et al. The method steps as recited would have been incorporated within the use of the invention as taught by Schwartz et al.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1,8, and 10-12, have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3636

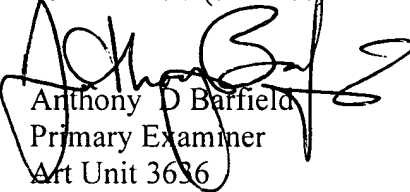
8. Applicant's arguments filed 03/06/06 have been fully considered but they are not persuasive. In response to applicant's argument that Swenson has been misconstrued by the examiner in regards to claim, 4. The examiner is of the opinion that in fact Swenson does anticipate the claimed invention of claim 4 so far as defined. Applicant should note that the backrest assembly (16) of Swenson constitutes a support (35) for a back of a chair. Furthermore a bracket (18) is connected thereto via the cushion or other means. In response to applicant's argument that "*the armrest of Swenson et al reference can assume a position substantially perpendicular*", the examiner is of the position that so far as defined by the claimed invention the armrest body only has to be capable of maintaining a substantially parallel orientation. The claims does not define that the orientation has to be maintained at all times throughout movement of the armrest. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wilkerson teaches the use of a chair with a pedestal having a plurality of legs for extra stability.

Art Unit: 3636

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is 571-272-6852. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anthony D Barfield  
Primary Examiner  
Art Unit 3636

adb  
May 12, 2006